

MAINE STATE LEGISLATURE

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EIGHTY-FIFTH LEGISLATURE

Legislative Document

No. 549

H. P. 1021

House of Representatives, Feb. 12, 1931.

Referred to Committee on Public Health and 500 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mrs. Day of Gorham.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND THIRTY-ONE

AN ACT to Regulate the Occupation of Hairdressers and Cosmetologists, to Register and License Persons Engaged in Such Occupation and to Create a Board of Hairdressers and Cosmetologists.

Be it enacted by the People of the State of Maine, as follows:

Section 1. Certificate of registration required: It shall be unlawful for any person in the state to engage in or to follow or to attempt to engage in or to follow, the occupation of a hairdresser or cosmetologist, or to conduct a hairdressing or cosmetologist establishment or school, unless such person shall have first obtained a certificate of registration as provided by this act.

Sec. 2. Classification for the purpose of this act: The following classifications of practices shall be adopted and understood to define practitioners within the meaning of this act:

Class A.—Any person who engages for compensation in any one or any combination of the following practices, to wit: Arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring, or similar work, upon the hair of any person by any means shall be construed to be practicing the occupation of a hairdresser.

Class B.—Any person, who, with hands or mechanical or electrical apparatus or appliances, or by the use of cosmetic

preparations, antiseptics, tonics, lotions, or creams, engages for compensation in any one or any combination of the following practices, to wit: Massaging, cleansing, stimulating, manipulating, exercising, beautifying, or similar work, the scalp, face, neck, arms, bust, or upper part of the body, or manicuring the nails, or removing of superfluous hair, warts, moles, by the use of electricity or otherwise, about the body of any person shall be construed to be practicing the occupation of a cosmetologist.

Sec. 3. Definitions: For the purpose of this act the following definitions shall be adopted and understood to be included within the meaning of this act:

(a) An apprentice or student is a person who is engaged in learning or acquiring within a hairdressing or cosmetologist establishment or school and while so learning assists in any of the practices of the classified occupation within this act under the immediate direction and supervision of a registered operator or instructor.

(b) An operator is a person, not an apprentice, who engages in and follows any of the practices of the classified occupations named within this act.

(c) A hairdressing or cosmetologist shop is that part of any building wherein or whereupon any the classified occupations are practiced.

Sec. 4. Registered Schools:

(a) It shall be competent for any persons, firm or corporation to apply to the Board of Hairdressers and Cosmetologists for a certificate of registration as a school for any one or both of the classified occupations within this act, upon the payment of \$25.00 annual registration fee as determined annually by the said board for each of the classified occupations.

(b) No school for hairdressers or cosmetologists within this act shall be granted a certificate of registration until it shall attach to its staff a regularly licensed physician and employ and maintain a sufficient number of competent instructors, registered as such, and shall require a course of training not less than three hundred and twenty-five (325) hours for each of the two classified occupations and a proportional number of hours as approved by the said board, for any of the practices of the classified occupations as provided in this act, to include practical demonstrations, written or oral tests, and

practical instructions in sanitation, sterilization, and the use of antiseptics, cosmetics and electrical appliances, consistent with the practical and theoretical requirements as applicable to the classified occupations as provided in this act.

(c) No school, as provided in this act, shall operate within this state unless a proper certificate of registration under this act has first been obtained.

Sec. 5. Creation of State Board: There is hereby created a State Board of Hairdressers and Cosmetologists consisting of three (3) members, each of whom shall be a hairdresser or a cosmetologist. The governor, with the consent of the council, shall appoint the members of such board. Such members must have at least three (3) years practical experience in their respective occupations and shall be citizens of this state. No two members of the said board shall be members of, nor affiliated with any school teaching any of the classified occupations, while in office, nor shall any two members of said board be graduates of the same school of hairdressers or cosmetologists.

Each member of said board shall serve a term of three (3) years, and until his successor is appointed and qualified, except in the case of the first board whose members shall serve one (1), two (2), three (3), and four (4) years respectively. The members of the said board shall take the oath provided for public officers. Vacancies shall be filled by the governor, with the consent of the council, for the unexpired portion of the term.

Sec. 6. Organization of board: The said board shall have a president and a secretary, who shall be elected annually by the members from their own number.

Sec. 7. Compensation of members of board: Each member of said board shall receive ten (\$10.00) dollars for each day employed in the actual discharge of his or her duties, and his or her necessary expenses so incurred. The secretary of said board shall receive an annual salary, not to exceed \$2,500.00 to be fixed by the board, and his or her necessary expenses actually incurred in the performance of the official duties. The compensation of the other members, and the expenses of the members including those of the secretary, as hereinbefore provided, shall be paid from the fund in the state treasury to the use of the board on requisition signed by the

president and the secretary of the board and the warrant of the auditor of state.

Sec. 8. Bond of secretary: Before entering upon the discharge of the duties of his office, the secretary of the board shall give a bond with corporate surety, to the state in the sum of five thousand dollars, such bond to be approved by the board and to be conditioned for the faithful discharge of the duties of the secretary's office and the premium therefor to be paid from the funds in the state treasury to the use of the board. Such bond, with the approval of the board and oath of office endorsed thereon, shall be deposited with the secretary of state and kept in his office.

Sec. 9. Meetings of the board: The said board shall meet in the capitol of the state, on the second Tuesday in January and July of each year, and at such other times and places as the board may direct. The majority members of the board shall constitute a quorum for the transaction of business. The board shall prescribe rules for its government and have a seal with which to authenticate its acts.

Sec. 10. Record of board: The said board shall keep a record of its proceedings. It shall keep a register of applicants for certificates showing the name of the applicant, the name and location of his place of occupation or business, and whether the applicant was granted or refused a certificate. The books and records of the board shall be prima facie evidence of matters therein contained, and shall constitute public records.

Sec. 11. Application for examination: Each person, who desires to practice any of the practices designated to be within the meaning of this act shall file with the secretary of the said board a written application, accompanied by a health certificate issued by a regularly licensed physician, on a form prescribed and supplied by said board, and shall submit satisfactory proof of the required age, educational qualifications, and of good moral character, and shall deposit with the secretary the required fees.

Sec. 12. Requisites for admission to examination and registration: No person shall be admitted to examination or registration under this act unless he or she possesses the following qualifications: Be at least sixteen (16) years of age, of good moral character and have an education equivalent to the completion of the eighth grade of the grammar school.

(b) Operators may be registered in any of the practices of the classifications under this act upon the payment of the examination fee as may be fixed by the board, not exceeding \$5.00 for any one of the classifications, providing they are of good moral character and have an education equivalent to the completion of the eighth grade of grammar school and shall have served and completed the required time and studies, as uniformly determined by the board to be necessarily related to any one or combination of the practices but not less than six (6) months for each of the classifications, under the supervision of a registered operator as an apprentice, or shall have had the required training in a registered school, but not less than 325 hours for any one of the two classifications as defined in this act, and shall have passed an examination to the satisfaction of the board as provided in this act. Provided, however, that from the passage of this act, applicants for examination for license to practice the removal of superfluous hair, warts, or moles by the use of electricity, commonly known as the practice of electrolysis, shall have a training in that particular occupation under the supervision of a registered electrologist of at least 250 hours, and such other reasonable studies and practices related thereto as the board may prescribe.

(c) Instructors in a school may be registered upon the payment of a fee of \$10.00. Instructors to be registered as such shall hold an operator's license and shall have had at least one year's experience as an operator. Instructors duly registered under any limited or unlimited medical practice act, or lecturers upon subjects not directly appertaining to the practice under this act, need not be holders of operators' certificates as provided under this act, and shall otherwise be exempt from the provisions of this act.

(d) The sufficiency of the qualifications of applicants for admission to the examination for registration shall be determined by the board, but the board may delegate the authority to determine the sufficiency of such requirements to the secretary, subject to such provisions as the board may make for appeal to the board.

Sec. 13. Admission to examination: If the board finds that the applicant has submitted the credentials required for admission to the examination, and has paid the required fee, the

board shall admit such applicant to examination or registration.

Sec. 14. Examination: The examination of applicants for certificates to practice under this act shall be conducted under rules prescribed by the said board, and shall include both practical demonstrations and written or oral tests in reference to the practices for which a license is applied for and such related studies or subjects as the board may determine necessary for the proper and efficient performance of such practices, and shall not be confined to any specific system or method, and such examinations shall be consistent with the practical and theoretical requirements of the classified occupation or occupations as provided by this act.

Sec. 15. Certificates: If an applicant to examination for operator passes such examination to the satisfaction of said board, and has paid the fee required or an instructor pays the required fee and complies with the requirement pertaining to instructors provided in this act, the board shall issue a certificate to that effect, signed by the president and secretary and attested by its seal. Such certificate shall be evidence that the person to whom it is issued is entitled to follow the practice, occupation or occupations, stipulated therein as prescribed in this act. Such certificate shall be conspicuously displayed in his or her principal office, place of business or employment.

Sec. 17. When board may dispense with examination: The board may dispense with examinations of applicants as provided in this act, may grant certificates of registration under the respective sections upon the payment of the required fee as provided in this act, provided that such applicant has complied with the requirements of another state, territory, District of Columbia, or foreign country, state or province wherein the requirements for registration are substantially equal to those in force in this state at the time application for such certificate is filed, or upon due proof that such applicant has had continuously practiced the practices or occupation for which a license is applied for at least five years immediately prior to such application and upon the payment of a fee of \$15.00.

Sec. 18. Exemptions: All persons who are engaged in the

actual and continuous practice of any of the practices of the classified occupations named in this act, prior to the passage of this act, shall be entitled to a certificate to practice under this act, without an examination, and any person who, prior to the passage of this act, was studying any of the practices or classified occupations shall be credited with the time or hours spent in their study, provided that application for such certificate or credit is filed within four months after the taking effect of this act, and upon the payment of the fees as provided in this act.

Sec. 19. Powers and duties of the board:

(1) The said board, created by this act, shall have the power to revoke and suspend certificates, provided in this act, upon proof of violation of the rules and regulations established by the said board governing the classified practices under this act.

(2) The board may refuse to grant a certificate to a person guilty of fraud in passing the examination or at any time guilty of a felony or gross immorality, grossly unprofessional or dishonest conduct or to one addicted to the use of intoxicating liquor or drugs to such an extent as to render him or her unfit to practice in any of the practices or occupations classified under this act, or to one advertising by means of knowingly false or deceptive statement, or for the failure to display the certificates as provided in this act.

(3) The said board shall have the power to require the attendance of witnesses and the production of such books, records and papers as it may desire at any hearing or any matter which the board has authority to investigate, and for that purpose may require the secretary of the board to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the sheriff and witnesses shall be the same as that allowed in the.....court in criminal cases. Fees and mileage shall be paid from the fund in the state treasury for the use of the board in the same manner as other expenses of the said board are paid.

(4) The said board may investigate any alleged violation

of this act, and, if there shall appear to be reasonable cause therefor, on reasonable notice to any person accused of any such violation, may take testimony with reference thereto; may make complaint to the prosecuting authority having jurisdiction of any such complaint or may examine into all acts of alleged abuse, fraud, incompetence or immorality; may suspend the license of any licensed hairdresser, cosmetician or assistant and may revoke the license of any person convicted of violation of any provision of this act.

(5) The treasurer of said board shall, semi-annually, on the first Tuesdays of June and December, account to the treasurer of the state for the sums received by her for all examinations, licenses and registrations, less the amount paid by her for stationery, printing, purchase of necessary apparatus and material for the examination of applicants and registrations, clerical services, salaries and expenses of said commissioners. All funds received by said treasurer in excess of the total expenditures as hereinbefore authorized, shall be paid into the treasury of the state.

Sec. 20. Sanitary rules: The said board shall, with the approval of the State Board of Health, prescribe such sanitary rules as it may deem necessary, with particular reference to the precaution necessary to be employed to prevent the creating and spreading of infectious and contagious diseases, and it shall be unlawful for the owner or manager of any hairdressing or cosmetician or cosmetological shop or school to permit any person to sleep in or use for residential purposes any room used wholly or in part as a hairdressing or cosmetological establishment, may practice outside of such establishment under the direction and control of an owner or manager thereof under such regulations as the board may provide.

Sec. 21. Hearing may be held by any member: Any investigation, inquiry or hearing, which the said board is empowered by law to hold or undertake, may be held or undertaken by, or before any member or members of said board and the finding or order of such member or members of said board shall be deemed to be the finding or order of said board when approved and confirmed by it.

Sec. 22. Appeal from actions of the board: An appeal may be taken from an action of the said board refusing to grant

or suspending or revoking a certificate for the causes mentioned in the preceding section, to the superior court of the county in which the person who has been refused a certificate or whose certificate has been suspended or revoked resides. The judgment of the superior court may be reviewed by the supreme court upon proceedings in error.

Sec. 23. Fees: The fees for examination and certificate as provided in this act shall be paid in advance to the secretary of the board, and by him paid each month into the state treasury to the credit of a fund for the use of the said board. On failure to pass an examination the fees shall not be returned to the applicant, but within one year after such failure he or she may present himself or herself and be again examined without the payment of an additional fee.

The fee to be paid by an applicant for an examination to determine his fitness to receive a certificate of registration to practice beauty culture is ten dollars, and for the issuance of the certificate, two dollars.

The fee to be paid by an applicant for a certificate of registration to practice as an apprentice is five dollars, and for the issuance of the certificate, two dollars.

The fee to be paid for the renewal of a certificate of registration to practice beauty culture is five dollars, and for restoration of an expired certificate, seven dollars.

The fee to be paid for the renewal of a certificate of registration to practice as an apprentice is one dollar and fifty cents, and for the restoration of an expired certificate, five dollars.

The fee to be paid for a certificate or its renewal for the registration of a hairdressing or cosmetology school shall be twenty-five dollars.

Sec. 24. To whom provisions of this act shall not apply: Nothing in this act shall prohibit service in case of emergency, or domestic administration, without compensation, nor services by persons authorized under the laws of this state to practice medicine, surgery, dentistry, chiropody, osteopathy or chiropractic nor services by barbers lawfully engaged in the performance of the usual and ordinary duties of their vocation. Nothing contained in this bill shall refer to barbers doing ladies' haircutting.

Sec. 25. Display of certificate: Every holder of a certifi-

cate granted by the said board, as provided in this act, shall display it in a conspicuous place in his or her principal office, place of business or employment.

Sec. 26. Renewal of certificates: The holder of a certificate issued by the board as provided in this act, who continues in active practice or occupations, shall annually, on or before the 31st day of December, renew his or her certificate and pay the renewal fee. A certificate which has not been renewed prior to the thirty-first day of December in any year shall expire on the 31st day of December in that year. The holder of the expired certificate may have within three years of the date of expiration the certificate restored upon the payment of the required renewal fee of \$5.00 and satisfactory proof of his or her qualifications to resume practice or occupation.

Sec. 27. Duration of certificates; renewal fees: No certificate shall be issued for a longer period than one year, and all certificates shall expire on the 31st day of December next succeeding, unless renewed for the next year, as herein provided, and upon the payment of the fees for renewals, as determined by the board.

Sec. 28. Penalties: Any person who shall practice any of the occupations, maintain a school or act in any capacity wherein a certificate is required, without a certificate provided in this act, shall be guilty of a misdemeanor and shall be fined not to exceed \$100.00 or shall be imprisoned for no more than ninety days, or both. Each and every day of violation shall be construed as a separate offense. All fines and penalties shall be paid to the secretary of the board, and by the secretary shall be paid into the state treasury for the use of the board.

Sec. 29. Meaning of "said board": Wherever the words "said board" are used in this act it is the meaning and intent in this act that it refers to the Board of Hairdressers and Cosmetologists, as created by this act.

Sec. 30. Effect of partial invalidity of act: Each section of this act and every part of each section is hereby declared to be independent of every other, and the holding of any section or part thereof to be void or ineffective for any cause shall not be deemed to affect any other section or part thereof.

Sec. 31. Repeal of inconsistent acts: All acts or parts of acts in conflict herewith are hereby repealed.

Sec. 32. Name of act: The act may be cited as the Maine Hairdressers Act.

Sec. 33. Whenever the fees provided for in said act shall be insufficient to defray all expense provided for herein, no further action entailing expense shall be had pursuant to the terms hereof.